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Church of Scotland.

STATEMENT

ON THE

LAW OF CHURCH PATRONAGE

PREPARED BY

*A COMMITTEE OF THE GENERAL ASSEMBLY
OF THE CHURCH OF SCOTLAND IN 1870,*

IN COMPLIANCE WITH A

SUGGESTION OF THE RIGHT HON. W. E. GLADSTONE,

WITH DELIVERANCES OF THE GENERAL ASSEMBLY
ON THE SUBJECT OF PATRONAGE.



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STATEMENT
ON THE
LAW OF CHURCH PATRONAGE

PREPARED BY

A COMMITTEE OF THE GENERAL ASSEMBLY OF
THE CHURCH OF SCOTLAND.

IN compliance with a suggestion made by Mr Gladstone, the following Statement has been prepared, to explain the position of Lay Patronage in Scotland, in its historical aspects, and as it exists at the present day; and to set forth, in a brief compass, some of the grounds of the claim made for its abolition.

The circumstances which led to the appointment of the Committee may be briefly stated.

While the operation of the Laws of Patronage has been always felt to be unsatisfactory, the great majority of the ministers and members of the Church of Scotland were unwilling to disturb the arrangement effected by the law of 1843.* Many attempts have been made within the last twenty years, by framing regulations for the guidance of the Church Courts, and otherwise, to secure the better working of that Law; a Standing Committee on the subject of these regulations has been continued year by year; and on two different occasions special Committees were appointed to consider whether the Act itself could be modified so as to produce greater harmony in the settlement of ministers. But at length it came to be generally felt that the chief evils were

Narrative of proceedings leading to appointment of Committee.

* Act 6 and 7 Vict., cap. 61.

inseparable from the system of Lay Patronage which the Act sought to administer; and accordingly the General Assembly of 1866 resolved that, 'having respect to the advantages ' that would accrue from the modification of the Law of ' Patronage, a Committee be appointed to inquire into the ' subject.' In 1867 the General Assembly was almost equally divided on the question of reappointing this Committee. In 1868 the General Assembly voted upon two motions, one of them proposing the abolition of the Act of Queen Anne, and the other, which was carried by a small majority, appointing a Committee to inquire whether any modifications of the Law of Patronage 'are called for and ' can be made,' with power to consult 'influential parties ' as to such modifications as may appear likely to command ' success and promote the interests of the Church.' The Committee reported that they had consulted Presbyteries, Elders, and Patrons, and that while many of the Elders and Patrons had not replied to their communication, a large majority of the Returns from Presbyteries, and of the Answers received from the others, were in favour of an alteration on the Law of Patronage. The General Assembly thereupon, by a majority of 193 to 88, passed a resolution (26th May 1869), adopting 'the said Report in so far as it ' indicates the evils which have arisen from the existing Law ' of Patronage; the advantages which would arise from the ' abolition thereof, with such compensation to Patrons as may ' appear just and expedient; and generally, in so far as it ' recommends that the nomination of ministers should be ' vested in heritors, elders, and communicants, leaving the ' details, both as to the constitution of the nominating body, ' and as to the respective powers of the nominating body ' and the congregation at large, to be arranged so that there ' should be conferred on the permanent male communicants ' of each parish the greatest amount of influence in the ' election of ministers which may be found consistent with ' the preservation of order and regularity in the proceedings.'

At a subsequent meeting of Assembly it was resolved 'to ' petition both Houses of Parliament for the removal of ' Patronage,' in terms of the resolution just quoted; and the present Committee were appointed 'to take all other ' necessary steps for carrying their resolution into effect, and

‘ for attending to the progress of any legislative measure on
 ‘ the subject of Patronage which may be introduced into
 ‘ Parliament.’

The petitions were presented to the House of Lords by the Earl of Stair, and to the House of Commons by Sir Robert Anstruther; and a deputation was sent to London from the Committee, to lay the resolutions of the Church before the Prime Minister and the Lord Advocate for Scotland. The deputation, which was received by the Scotch Members of Parliament with much cordiality, had, in the first instance, an interview with the Lord Advocate Moncrieff, who expressed his general approval of their views. Three Peers and thirty-seven Members of the House of Commons subsequently had the kindness to accompany them to the Prime Minister, by whom they were most courteously received. Mr Gladstone suggested that a statement should be drawn up, so as to bring more fully before the Government, and other members of the Legislature, the claims of the Church of Scotland, and the grounds upon which these rest.

Deputation to
London.

The Committee have in consequence prepared, and now present, this Statement, with the view of meeting the suggestion of Mr Gladstone, so far as their commission from the General Assembly enables them to do so.

Whatever may have been the origin of Lay Patronage, it appears that at the Reformation, in the year 1560, there were 940 parochial benefices in Scotland, of which 262 were designated as *Patronate*, and 678 as *Patrimonial*. In patronate benefices, the incumbent, who was styled rector or parson, had a right to the whole tithes. Patrimonial benefices were such as had been conveyed absolutely to ecclesiastical corporations or Church dignitaries; and in them the cure was served by a member of the corporation or by a stipendiary. The patronate benefices were for the most part in the gift of the Crown, although in some the Patronage belonged to individual laymen or ecclesiastics. It was, therefore, in less than 262 out of 940 benefices that Lay Patronage existed, bequeathed to the Church from pre-Reformation times. With regard to Patrimonial benefices, Lord Stair observes, ‘ there was no patronages of all
 ‘ these kirks.’

History of Patronage before the Revolution Settlement.

The ‘ First Book of Discipline,’ which, though never ratified

First Book of Discipline, 1560.

by Parliament, was subscribed by a majority of the members of the Privy Council, and approved by the earlier General Assemblies, thus lays down the principle on which the appointment of ministers should proceed: 'It appertaineth to the people and to every several congregation to elect their minister.' 'This libertie with all care must be reserved to every several church, to have their votes and suffrages in the election of their ministers' (chap. iv. 2-4). The only limitations to this liberty were, that the right must be exercised without undue delay; and that if not so exercised, the superintendent and his council might present a man whom the vacant church ought to receive, unless upon examination he should be found unqualified.

To the same effect is the direction in the 'Book of Common Order,' which had been used in Knox's congregation in Geneva, and was received and approved by the Church of Scotland: 'The ministers and elders at such times as there wanteth a minister assemble the whole congregation, exhorting them to advise and consider who may best serve in that room and office.' The General Assembly of 1560 'appointed the election of the minister, elders, and deacons to be in the public kirk.' At the election and admission of a superintendent* for the churches of Lothian, in 1560, at which John Knox presided, and to which all the churches 'having a voice in the election' had been duly summoned, the question was put 'to the whole multitude, If there was any other whom they would put in election?' and then the further question, 'If they would have the said M. John superintendent?' The same form was appointed to be followed in the election and admission of ministers generally.†

* *Superintendent*.—As the number of ministers was not sufficient to supply all the parishes, the Reformers appointed a few men of the highest attainments to superintend districts, requiring them to travel incessantly to and fro, preaching not less than three times a-week. They were subject to reprimand or deposition by the General Assembly. See Principal Lee's 'Lectures on the History of the Church of Scotland,' vol. i. p. 160.

† While the Church thus, in the 'First Book of Discipline,' declared that the election of ministers should be vested in the people, it is to be observed that the Reformed ministers had no wish to serve themselves sole heirs to the rich endowments of the Popish hierarchy and corporations; but presented a petition to the Convention of Estates, praying, amongst other things, that 'the patrimony of the Church should be employed to the sustentation of the ministry, the provision of schools, and entertainment of the poor.' But this,

Book of Common Order.

Mode of electing ministers, 1560.

Proposed application of ecclesiastical endowments

The principles by which the Church was to be guided in the election of ministers being thus laid down and acted on, the Reformers had to deal with the fact, that in nearly one-fourth of the parochial benefices there existed the system of Lay Patronage. Their first object seems to have been to limit and regulate its exercise even within the bounds to which it was confined. In 1566, they obtained an ordinance of the Queen in Council, that all benefices under the yearly value of 300 merks should be disposed, *i.e.* assigned to such persons as the superintendents and Assembly of the Kirk, after due examination, should find qualified, and should nominate and present to her Majesty; and in 1567 a series of statutes was passed by which

Statutes, 1567.

Popery was abolished, the Reformed religion was recognised, its Confession of Faith was ratified and approved, and a more satisfactory legal provision was made for the ministers. By one of these Acts (1567, c. vii.), 'It is statute and ordained . . . that the examination and admission of ministers within this realm be only in the power of the Kirk now openly and publicly professed within the same—the presentation of laick patronages alwaies reserved to the just and auncient patrones.' This reservation, it will be observed, would not apply even to the whole of the 262 patronate benefices, and did not apply to any patronages which, since 1560, might have been granted by the Crown. 'Laic patronages (says Sir

Position of minis-
ters after Refor-
mation.

says Spottiswoode,* 'was not very pleasing to divers of the nobility, who, though they liked well to have the Pope, his authority, and doctrine condemned, had no will to quit the Church patrimony, wherewith in that stirring time they had possessed themselves.' The result was, that for the first few years after the Reformation, while the cures were served by the Reformed ministers, these seem generally to have drawn little from the benefice, and to have been to a great extent dependent for subsistence on the contributions of their flocks, or on their own means. Queen Mary had directed that two-thirds of the fruits of the benefices should be retained by the old possessors, and that out of the remaining third a suitable stipend should be paid to the Reformed ministers; but this fund was neither fairly levied nor properly applied. In the meantime many of the laity appropriated the possessions and tithes of the benefices, and were aided in doing so by the old incumbents. The patrons of the smaller benefices took possession of them as they became vacant, in many instances without legal authority, while the greater benefices were often granted by Queen Mary, as they fell vacant, to lay nobles and others *in commendam*—a well-known device, originally contrived for evading the canon law, and enabling persons otherwise incapable of holding a benefice to draw its fruits through one who was a mere trustee for them.

* Spottiswoode's 'History of Religious Houses,' p. 150.

‘ George Mackenzie,* commenting upon this Act, 1567), are
 ‘ such as have been disposed before the Reformation by his
 ‘ Majesty (and those pass by infestment), or have been founded
 ‘ by laic patrons since.’

Grants of Patronage by King James.

King James, on assuming the reins of government, claimed for the Crown all the property of the Popish Church in Scotland, and made heritable grants to nobles and others of the great benefices, with the rights of patronage which had belonged thereto. The grantees of these erected benefices, called Titulars,† or Lords of Erection, came thus into possession of the right of patronage of the patronate churches belonging to the benefice, and, in room of the ecclesiastical corporations to which they succeeded, became titulars of the patrimonial churches of the suppressed Establishment. The King also assumed the right of erecting the stipendiary cures into benefices, and made grants of the patronage thereof, although Sir George Mackenzie, who is a high authority, affirms that ‘ nothing could be so unjust or illegal as these patronages were.’ The Church did not fail to protest against the system, both by Act of Assembly and in practice. In 1582 the Assembly made a reservation in favour of the ‘ laic patrons and their presentations,’ but this only ‘ until the tyme the lawes be reformat according to God’s Word.’ In 1588 they agreed to petition the King that all gifts of the Patronage of patrimonial benefices might be annulled in the ensuing Parliament, and in the meantime they prohibited Presbyteries from instituting any minister who had been presented by ‘ the new patrones ’ until the next General Assembly ; and even so late as 1596, they declared that if any should seek presentation, without advice of the Presbyteries beforehand, they should be repelled ‘ as *rei ambitus*.’

Second Book of Discipline.

The ‘ Second Book of Discipline,’ which was agreed upon by the General Assembly of 1578, protests no less distinctly than the ‘ First ’ against Lay Patronage, though it proposes a somewhat different substitute. In chap. xii., under the title, ‘ Certain special heads of Reformation which we crave,’ there is the following statement :—

* ‘ Observations on the Act 1592.’ Sir George Mackenzie was the well-known Lord Advocate in the reign of Charles II.

† Titulars of the tithes had by their grants the same title to the benefices which the monasteries had formerly, and they became responsible for the supply of the cure out of the tithes thus acquired.

‘ Because this order, which God’s Word craves, cannot stand with Patronages and Presentation to Benefices, as used in the Pope’s Kirk, we desire all them that truly fear God earnestly consider, forasmeikle as that manner of proceeding has no ground in the Word of God, but is contrary to the same, and to the said libertie of election, they ought not to have place in the light of this Reformation.’ The ‘ said libertie of election ’ was proposed to be ‘ by the judgment of the eldership and consent of the congregation.’

So far as the practice of the Church at this early period can be traced, it is found, to some extent at least, upholding popular election. At St Ninians in 1587, at St Andrews in 1590, at Haddington in 1601, the appointments were made by the people. In 1597 a presentation to the vicarage of Tranent was refused, and another, in 1602, to the vicarage of Aberlady; and the presentee in each case was declared to be ‘ *reus ambitus*.’ Even in 1621, under Episcopacy, the Presbytery of Haddington refused to induct a presentee against the wishes of the people.

Early Practice of
the Church.

The remonstrances of the Church were, however, unavailing; and in the Act 1592, chap. 116, which gave the sanction of the civil power to the Presbyterian form of Church government, it was expressly provided that the Presbytery ‘ be bound and astricted to receive and admit quhatsumever qualified minister presented be His Majestie or uther laic patrones.’

Act ratifying
Presbyterian
Government,
1592.

From that time down to 1638, including the thirty years of Episcopacy, Patronage continued to be the law binding upon the Church; though, as has been shown already, individual parishes often protested against it, and sometimes not in vain. Even during that period the Church did not submit to, nor did the Patrons attempt to enforce, unrestricted Patronage. When Presbytery was restored in 1638, the struggle against Patronage was renewed, but it was felt and admitted that a successful issue in that struggle could only be reached by Act of Parliament. In the meantime, the Church bore with the evil which she could not remove. In a pamphlet written in 1641 by Alexander Henderson, the well-known ecclesiastical leader, ‘ it is said, ‘ This libertie of election is in part prejudged or hindered by patronages and presentations, which are still in use there, not by the rules of their discipline, but by toleration of that which they cannot amend.’* In the next year, 1642, the

Period from 1592
to 1649.

* “ Treatise on the Government and Order of the Church of Scotland.”

Crown Patronage was laid aside in favour of lists of qualified preachers recommended by the Church, of whom the King was to select one; and in 'Baillie's Letters'* it is stated that the Marquis of Argyle made to the General Assembly 'a fair offer for himself and all the noblemen present, hoping to persuade other noblemen and gentlemen to do the like, that they would give free liberty to presbyteries and people to name whom they would to vacant places, upon condition the Assembly would oblige intrants to rest content with modified stipends.' The condition here made was naturally objected to, but the plan suggested was otherwise carried out in the Act of 1649, cap. 39, one of the most important in the history of the question.

Patronage abolished, 1649.

By this Act Patronage was abolished. The preamble of the Act declares that 'Patronage and presentation to Kirks is an evil and bondage under which the Lord's people and the ministers of this land have long groaned, and that it has no warrant in God's Word,' and further, 'that it is prejudicial to the libertie of the people.' The Act then proceeds to 'discharge for ever thereafter all patronages and presentations to kirks;' and to annul all gifts made 'in favor of any patrone or patrones whatever;' and to ordain that ministers be settled 'on the sute and calling, or with the consent of the congregation, on whom none is to be obtruded against their will;' leaving the Church to arrange the working of the Act by regulations of its own. The Act further made direct compensation to Patrons for the loss involved in its provisions: 'It is further statute and ordained, that the tithes of these kirks whereof the presentations are hereby abolished, shall belong heritably unto the said Patrons, and be secured unto them, and inserted in their rights and infestments in place of the Patronage.'

Compensation to Patrons.

Power of Purchasing Teinds given to Heritors.

Besides this direct compensation to Patrons, the Act conferred a boon on heritors and proprietors of land in Scotland. In 1629, an Act had been passed giving them power to buy up at nine years' purchase the tithes of their own lands, burdened with stipend and future augmentations thereof. The Act 1649, cap. 39, which abolished Patronage, gave to heritors power to buy at six years' purchase.

Restoration, 1660.

At the Restoration, Episcopacy and Patronage were restored.

* 'Baillie's Letters,' vol. i. p. 337.

together. All the provisions of the Act 1649 were repealed, and orders were given that Presbyterian ministers settled under that Act should be ejected from their livings, unless they accepted presentation from the Patron, and came under special obligations to submit to the bishop. In consequence, nearly one-third of the clergy vacated their livings. The persecution of the ejected clergy and their adherents, commonly known as the Covenanters—which, after the lapse of two hundred years, is still fresh in the memory and indignation of the people—continued till the Revolution of 1689.

Scotland rejoiced as much as any other part of the British dominions in the civil and religious freedom secured by the Revolution Settlement, which restored the Presbyterian Church and gave deliverance from Patronage. The Act 1690, cap. 5, ratified the Act 1592, called the ‘Charter of the Church,’ with the exception of the clause regarding Patronage, which was ‘reserved;’ and the Act 1690, cap. 23, abolished Patronage, which it affirmed had been ‘greatly abused,’ and was ‘inconvenient to be continued in this realm;’ and in its place gave the power of nominating ministers to the ‘heritors of the parish (being Protestants), and the elders,’ who were ‘to name and propose the person to the whole congregation, to be approved or disapproved by them.’ The Act revived the provisions of the Act 1649, cap. 30, giving compensation to Patrons, enacting that ‘the right of the teinds of the said parishes which are not heritably disposed, shall, *by virtue of this present Act*, belong to the said Patrons, with the burden always of the ministers’ stipends;’ and by Act 1693, cap. 25, those provisions were expressly extended to the churches which were originally patronate, and where the rector or parson had before been entitled to draw the whole teinds of the parish.

There was another provision of this Act, apparently intended to secure compensation to a Patron where, from the position of the teinds in the parish, he might not benefit by the prior enactment. This provision, which ultimately proved injurious, was as follows:—‘And in lieu and recompence of the said right of presentation hereby taken away, their Majesties, with advice and consent foresaid, statute and ordain the heritors and life-renters of each parish, and town-council for the burghs, to pay to the said Patrons, betwixt and Martinmas next, the sum of six hundred merks (L.33, 6s. 8d. sterling.)’ It is then pro-

Revolution settle-
ment, 1690.

Compensation to
Patrons,—

1. Teinds.

2. Money.

vided that the Patrons shall be bound to accept this payment, and to grant a renunciation of their rights thereupon; and 'in case the heritors and others aforesaid be unwilling to pay, ordains letters of horning to be direct *at the instance of their Majesties' solicitor* against either of them.' It is provided also that, till renunciation is given by Patrons, 'in the meantime heritors and Kirk-Session to call the minister, conform to this Act.'

Patronage of only four parishes purchased.

The provision for buying up the Patronages at a nominal sum was not acted on, only four parishes having tendered the money; and one of these (the parish of Strathblane) having paid it by mistake to the wrong person, his renunciation was declared void. But it cannot be maintained that the blame of allowing this provision to remain inactive lay with the Church; for payment was to be made, not by the Church at large, or by the Kirk-Session, or by the congregation, but by the heritors and life-renters. And the letters of horning against those who delayed payment beyond 'Martinmas next,' were to be at the instance, not of the Church or the Kirk-Session, but of the Crown solicitor. That the provision was not enforced was probably due to the clause transferring the Patronage to the Kirk-Session and heritors, whether payment were made or not.

Working of the Act of 1690.

The working of the Act of 1690, abolishing Patronage, may be said, making allowance for the circumstances of the times, to have been satisfactory. The preamble of the subsequent Act of Parliament 1712 does indeed state that 'that way of calling ministers occasioned great heats and divisions among those who were entitled and authorised to call ministers;' but against this (which was, as will be shown immediately, a hostile representation) may be set the assurance of the Commissioners of the Assembly 1735 (and engrossed in the Record of Assembly 1736), that under it matters were managed 'with much calmness, decency, and order,' and that 'religion and loyalty daily gained ground against profane principles and practices, and against disaffection to the civil government:' and this other testimony, still more conclusive, that the Commission of the Assembly 1711 unanimously and eagerly opposed its abolition, as tending inevitably 'to obstruct the work of the gospel, and create great disorder and disquiet in the Church and nation.'

In the year 1712, under the administration of Harley and Bolingbroke, and just before the meeting of the General Assembly, there passed in great haste through the British Parliament the Act of Queen Anne, cap. 12, restoring Patronage. This Act repealed the Act of 1690, and restored the rights of Lay Patrons, except where renunciation of Patronage had been formerly made. Nevertheless, it preserved the right of the Patrons to the teinds which had been given them in 1649 and 1690 'in place of the Patronage.' As was stated by the Commissioners from the General Assembly in their representation against the Bill when passing through Parliament, 'This Bill takes back from the Church the power of presentation of ministers, without restoring the tythes which formerly belonged to her, by which the Patrons come to enjoy both the purchase and the price.' The Act requires and obliges Presbyteries to receive any qualified person presented to a parish, as presentees ought to have been admitted before the passing of the Act; and it makes no reference to any call or consent on the part of the people.

Act of Queen
Anne, 1712.

These are the chief provisions of one of the most important Acts ever passed affecting the Church of Scotland. And in order to understand both the Act itself and the effect which it produced, it is necessary to inquire, with what objects and motives it was passed. There exists ample historical evidence that it was one of the acts of a conspiracy for the purpose of bringing back the Stuart dynasty to the throne. The deputation of the General Assembly of 1735 (only twenty-three years afterwards) state openly in their address to the King, 'That it was done in resentment against the Church of Scotland, and that further threatenings were by these persons breathed out against her, for her firm and loyal adherence to the Revolution interest, and especially to the succession of the Crown in your Majesty's royal Protestant family, was not then denied, but boasted of, and is still remembered by all who observed these times.' Bishop Burnet (a member of the House of Peers when the Act passed) describes it as intended 'to weaken and undermine' the Church of Scotland. Lockhart of Carnwath, who was one of those who drew up the Act, states in his Memoirs that he did so 'against the interests of the House of Hanover.' And it is of this Act that Lord Macaulay says:—'The British Legislature violated the Act

of Union and made a change in the constitution of the Church of Scotland. From that change has flowed almost all the dissent now existing in Scotland. . . . From the Act of 1712 undoubtedly flowed every secession and schism that has taken place in the Church of Scotland.*

The Act was received with a unanimous protest on the part of the Church. The Assembly of 1712 carried their remonstrances to the foot of the throne. They protested that 'the Act abolishing Patronage must be understood to be a part of our Presbyterian constitution, secured to us by the Treaty of Union for ever.' Again and again did the General Assemblies of the Church repeat their protest. A quarter of a century afterwards, commissioners were again at the foot of the throne, imploring that the Church and people of Scotland might be restored to their just right and privilege in the settlement of ministers; and for nearly seventy years in succession instructions were given to the Commission of Assembly to embrace any favourable opportunity for getting the Act repealed.

This law of 1712 was for a long time only partially enforced. The Patrons seem to have been unwilling to exercise a privilege so unpopular and invidious; and many settlements continued to take place in conformity with the Act 1690. The general course of procedure seems to have been, that on a vacancy the Patron forebore to present. The *jus devolutum* † thus coming to apply, the Presbytery, on the lapse of the six months appointed by statute, made over their right to the heritors and elders, but required the consent of the congregation, who were asked to sign what was termed a 'call' in testimony of their approbation of the appointment. Gradually

* Burnet's 'History of his own Time,' ii. 595; Lockhart's Memoirs, vol. i. p. 418; Macaulay's Speeches, vol. ii. p. 180. The haste shown in passing the Act is remarkable. No intimation of the intention of Government to deal with the question was made until notice of the Bill was given in the Commons on the 13th March; it was read a second time on the 24th, committed on the 28th, and passed on 7th April. Next day it was read a first time in the Lords. The Commissioners of the Church, who had hurried to London on the first tidings of the Bill reaching Edinburgh, arrived too late for the proceedings in the Commons; they petitioned to be heard by counsel at the bar of the Lords; were heard on the 12th April; and *on the same day* (a Saturday) the Bill was read a second time, committed, and read a third time.

† *Jus devolutum*. If a Patron does not present a qualified person within six months of a vacancy in a parish, his right falls to the Presbytery, under the above name.

Protest of the Church.

Act of Queen Anne at first only partially enforced.

the call became the most important document in the whole procedure; and the appointment, even when presentations were issued, seems to have taken place rather under the call than under the presentation.* The Church Courts, in various instances, set aside presentations for no other reason than the opposition made to them by the people, and never proceeded to a settlement without first sustaining the call.

Matters continued in this state till about the year 1725,^{The Secession of 1733.} when a party began to appear, complaining of various grievances in the Church. Among other things they maintained that, in the elections which fell to Presbyteries *jure devoluto*, the heads of families ought to be the electors. The Church was disturbed by the disputes which followed; and the General Assembly of 1732 passed an Act entrusting to the heritors and elders the power of electing and calling a minister, and to the congregation the right of approving or disapproving. In the event of the congregation disapproving, the Presbytery were to judge of the sufficiency of the reasons alleged. This Act of Assembly gave great offence to the party just mentioned; and Mr Ebenezer Erskine, minister of Stirling, who was regarded as their leader, took an early opportunity of denouncing the position and conduct of the Church as unscriptural. This was done chiefly in two sermons — one preached to his own congregation at Stirling, the other before the Synod of Perth and Stirling, of which he was at the time Moderator. In the former, alluding to recent acts in the Church, he declared that ‘those professed Presbyterians who thrust men upon congregations without, and contrary to, the free choice their King had allowed them, were guilty of an attempt to jostle Christ out of His government.’

The Synod of Perth and Stirling having proceeded to censure Mr Erskine for his sermon preached before them, he appealed to the General Assembly, and was joined in the appeal by three of his brethren. The Assembly ordered the appellants to withdraw the language which they had employed, and to express regret for having used it; and, on their refusal, they were first suspended and afterwards deposed. Subsequent Assemblies endeavoured to heal the breach that had taken place; but their efforts at conciliation were not successful.

* Between 1712 and 1730 many settlements were made without a presentation; none without a call (Cunningham’s ‘Church History,’ vol. ii. p. 422.)

The seceding brethren formed themselves into an independent presbytery; and, in reply to the sentence of deposition passed against them in 1733, they 'appealed unto the first free, faithful, and reforming General Assembly of the Church of Scotland.' Such was the origin of the Secession Church.

The Relief Church, 1752.

The deposition of Thomas Gillespie, and the rise of what came to be known as the Relief Church, took place in 1752. He and five other members of the Presbytery of Dunfermline refused to take part in settling a presentee whom the General Assembly had ordered to be inducted in face of the opposition to the parishioners. It had become customary in such cases to effect the settlement by the appointment of a committee of ministers in place of unwilling members of Presbytery. But by this time the leading men in the Church deemed it necessary to put a stop to what they considered acts of insubordination and disobedience. They seem to have feared that, otherwise, the whole working of their ecclesiastical system would be thrown into confusion. Accordingly, the six ministers were summoned to the bar, where they made a declaration, 'that ever since the Act restoring Patronage in the end of Queen Anne's reign, there has been a vehement opposition to all settlements by presentation where there was but small concurrence [*i.e.*, on the part of the congregation], which settlements have already produced a train of the most unhappy consequences, greatly affecting the interests of religion.' They further referred to the fact, that so recently as 1736 the Assembly had passed an Act against the intrusion of ministers, which called upon all Presbyteries, as 'they regarded the glory of God and the edification of the body of Christ, to see that no minister be intruded into any parish contrary to the will of the congregation.' They followed up this declaration by declining to take part in the case of intrusion, which they maintained to be in direct disregard of the principles held by the Church of Scotland since the Reformation, and enjoined anew by the Act of Assembly 1736. The General Assembly, notwithstanding that there was a sufficient quorum in the Presbytery willing to settle the presentee, thought it necessary, by way of example, to depose for disobedience one of those who objected, and fixed on Mr Thomas Gillespie, minister at Carnock. The result was the formation of the Relief Church.

Several small churches were subsequently formed from the Secession Church, but most of these, along with the parent body and the Relief Church, were, some years ago, consolidated into what is known as the United Presbyterian Church. The two seceding Churches did not carry with them originally any large number of the people. A few ministers seceded, carrying with them their congregations, or a portion of them. But the results which followed were seriously injurious to the Church. Patronage came to be more and more stringently exercised; and Sir Henry Moncreiff states in his 'Life of Erskine,' speaking of the position of matters some sixty years ago, 'The battle in Assemblies is in a great measure over, as a disputed settlement no longer creates any serious interest or division in the Church Courts; but the silent increase of seceding meetings has gradually weakened and contracted the influence of the Establishment on the general population.' It was, to a great extent, through unacceptable settlements in the Established Church, that the seceding Churches acquired from time to time large additions to the number of their adherents.

It has been mentioned that on the passing of the Act of Queen Anne the General Assembly protested earnestly against it. An unsuccessful attempt to obtain its removal was made in 1735; and in the following year the General Assembly recorded in solemn words 'that the Church of Scotland was obliged to persist in using her best endeavours to be relieved from the grievance of Patronage.' From that date down to the year 1783 the Assemblies of the Church gave an annual instruction to their Commission to avail themselves of any opportunity for obtaining a repeal of the Act. For forty-five years after 1783 the Church may be said to have submitted to Patronage, although a minority of its members still protested against it. The feeling with which some even of what is called the Moderate party, which had then the ascendancy in the Church, and was least unfavourable to Patronage, regarded it, may be gathered from the words of Dr Hardy, one of the ministers of Edinburgh, Professor of Church History, and an influential member of that party. In 1782 he published a pamphlet entitled 'The Principles of Moderation, addressed to the Clergy of the Popular Interest in the Church of Scotland,' with the object of uniting parties. In that pamphlet he says: 'Ye subjoin that this transference of power in 1712

Growth of the
Secession and
Relief Churches.

Continued aver-
sion of Estab-
lished Church to
Patronage.

‘ was wrong; that it was unfriendly in its intention, and hath
 ‘ been hurtful in its effects; and that the liberty of British
 ‘ subjects entitles you to say that it is a grievance, in the
 ‘ simple and grammatical sense of the word, and ought to be
 ‘ redressed. What reply do we make to this? None. We
 ‘ are silent here in our Assemblies. We are afraid to fret the
 ‘ sore which, alas! we cannot heal; or to say to the people in
 ‘ a great court, Your displeasure is not groundless; because we
 ‘ cannot add that “our votes can remedy the evil.” But we
 ‘ agree with you, gentlemen, in your sentiments of the law
 ‘ itself; we allow that it is a hardship; or, if you will contend
 ‘ for a word, we say with you it is a grievance; not such indeed
 ‘ as to justify resistance, but such as will warrant application
 ‘ for redress. When I speak thus, I am certain that I speak
 ‘ the sentiments of a great majority of the Moderate interest.’
 And in a subsequent passage he says: ‘The experienced
 ‘ opposition of seventy years, joined to the revolt of a hundred
 ‘ thousand people, are the proofs that absolute Patronage is
 ‘ irreconcilable with the genius of Presbytery.’

After 1784 no special action was taken for the next forty years, though there always existed a party in the Church desirous to renew the old movement against Patronage. In the year 1825 an Anti-patronage Society was formed, having no connection with the Courts of the Church, but serving to sustain and stimulate the traditional feeling on the subject. In 1832 a movement was made in the General Assembly to make the call given by the people to the presentee efficient. This having failed, there was next proposed the famous Veto Act, which, defeated in 1833, was again proposed, and was carried in 1834. The provision of this Act was, that the dissent of a majority of the male heads of families in a parish, being communicants, should, without any reason assigned, be sufficient to set aside a presentee. It was an Act of the General Assembly, not of Parliament; but it was not passed without a full assurance from the law officers of the Crown in Scotland that it was quite within the power of the Church. The intention of the promoters of this Act, however, was not to abolish Lay Patronage, but rather to save it by necessary modification.

In the same year, 1834, a Select Committee of the House of Commons was appointed on the Law of Patronage, the

evidence before which is the best summary of the historical and legal aspects of the question which we possess. The Committee came to no definite finding on the subject. The necessity for doing so was regarded, even by those who desired a change, as superseded by the action of the General Assembly, which was taken between the date of the Committee's appointment and that of their giving in their Report. But the warm expressions of regard for the Church with which the Committee conclude their Report should not be omitted in this statement. 'No sentiment,' they say, 'has been so deeply impressed upon the minds of your Committee, in the course of their long and laborious investigation, as that of veneration and respect for the Established Church of Scotland. They believe that no institution has ever existed which, at so little cost, has accomplished so much good. The eminent place which Scotland holds in the scale of nations is mainly owing to the purity of the standards and the zeal of the ministers of its Church, as well as to the wisdom with which its internal institutions have been adapted to the habits and the interests of the people.'*

Within a year after the Veto Act was passed the presentation to Auchterarder was issued. There immediately followed the *veto* against the presentee by a majority of the male heads of families, and the challenge in the Civil Court of the legality of that veto—a challenge sustained by the Court of Session, and ultimately by the House of Lords. Close on this followed the case of Lethendy, and then the case of Marnoch, in the Presbytery of Strathbogie. It was no longer the desirableness of the Veto Act, but the right of the Church to pass it, which was in question. The 'non-intrusion' controversy had passed into that of 'spiritual independence.' The decision of the House of Lords in the Auchterarder case led at once to a collision between the Courts of the Church and the Court of Session. And it was on a question thence arising in regard to the respective provinces of the Ecclesiastical and Civil Courts that the secession of 1843 actually took place. The Civil Courts had decided in opposition to the Courts of the Church, and the Legislature refused to interfere. Hence many of the party who had for years formed the majority in the General Assembly thought it their duty to withdraw

1834-43. The
Free Church.

* House of Commons' Patronage Report, 1834.

from the Church which they had long loved and had faithfully served; and the sacrifices which they made at the time gave testimony to the sincerity and depth of their convictions. It was the refusal of the State to interfere which led to this withdrawal; and to the State once again the Church appeals, to take at least the first step towards healing the breach that has been made by abolishing the Act of Queen Anne.*

Assembly's resolution on Patronage, 1842.

It may be necessary to mention here that in 1836 the Assembly had been asked to condemn Lay Patronage, and petition Parliament against it, but had refused to do so—Lord Moncreiff, the mover of the Veto Act, taking a most prominent part against the proposal. It was not until the Assembly of 1842 that a direct motion for the abolition of Patronage was carried. The resolution of the Assembly, 23d May 1842, was in the following terms:—‘The General Assembly having considered the overtures and petitions anent Patronage, did, and hereby do, resolve and declare, that Patronage is a grievance; has been attended with much injury to the cause of true religion in this Church and kingdom; is the main cause of the difficulties in which the Church is at present involved; and that it ought to be abolished.’

Lord Aberdeen's Act, 1843.

During the time that the controversy raged, the importance of the subject naturally attracted the attention of statesmen. This was specially the case with the Earl of Aberdeen, who always took a deep interest in Scottish affairs. He saw that the circumstances of the country called for some change in the appointment of ministers of the Church; and that the Law of Patronage must, at least, be modified. The modification contained in the Act passed by him (6 and 7 Vict., cap. 61) was the most that Parliament was then disposed to concede, and at the time it was satisfactory to many. It gave liberty to members of the Church to object to presentees on any ground that is ‘personal,’ and gave full power to the Courts of the Church to determine and pronounce judgment on such objections. Its efficacy, however, was greatly weakened by an

* According to one account, the number of parish ministers who seceded was 289 out of 1070, between one-third and one-fourth of the whole; and 162 chapel ministers out of 233, or more than two-thirds—being, in all, 451 out of 1303 (Turner's ‘Scottish Secession’). According to another account, 474 ministers in all, parochial and chapel ministers not being separately specified, signed a formal deed of separation (Buchanan's ‘Ten Years' Conflict,’ vol. ii. p. 625).

apparent contradiction which was introduced into its terms. For while, in one place, it enacts that the Church judicatories 'shall be entitled to have regard to the *character and number of the persons* by whom the said objections shall be preferred,' it enacts in another that they 'shall have regard only to such objections as are *personal to the presentee.*' In consequence of this apparent contradiction decisions under the Act necessarily varied, as members of Church Courts attached special importance to the former or latter clause; and since this rendered the result of every case more or less uncertain, the people have been discouraged in appealing to Church Courts, under circumstances involving great expense, without almost a possibility of foreseeing the issue. Still, as this Act assuredly increased in no small degree the influence of the congregation, so as, if read under one aspect, almost to put it in the power of the Church Courts to give effect to a popular veto, it might have modified subsequent events had it passed earlier. But it did not pass till the members of the Free Church had actually seceded.

The Act of Lord Aberdeen being thus capable of two different interpretations, there can be no doubt that the tendency of recent years has been to a more popular exercise of the powers of the Church. But this has been far from satisfying the people. As has already been noticed in the introductory part of this statement, various movements took place in the Church with a view to obtain a modification of the Benefices Act of 1843. But at length the Church has become convinced that nothing short of an abolition of the Law of Patronage will meet the necessities of the case.

Working of Lord Aberdeen's Act.

Enough has already been said to show the views entertained by the Church of Scotland, throughout its whole history, on the law of Patronage. For 300 years its abolition or modification has been continuously demanded: the Church has been wont to call it a 'burden and grievance;' and men, differing widely in opinion on other ecclesiastical questions, have been unanimous in the conviction that its existence has been a fruitful source of irritation, and of injury to the interests of religion among the people.

What the Committee now ask, in the name of the General Assembly, is, that the Church may be restored to its old standing-ground, with such modifications as may be necessary,

Claim of the Church.

by the abolition of the Act of Queen Anne, but making such compensation to Patrons as may be deemed reasonable. And this is asked on the following among other grounds:—

1. The claim for the abolition of Lay Patronage, as will be seen from the foregoing statement, has become historical or hereditary in the Church; and it may be sufficient to point to the fact that, amid all the changes in her history, and notwithstanding all the palliatives and remedies adopted, nothing has ever satisfied, or is likely to satisfy, the Church while Lay Patronage remains.

2. The abolition of Lay Patronage is asked as a matter of justice. The Church of Scotland has ever, on principle, maintained the right of her people to have a voice in the appointment of their ministers—a right which was conceded to her at first; and if frequently and for long periods this right has been in practice infringed or withheld, it has not been so without protest on the part of the Church. From Patronage the Church was relieved by the Acts of 1649 and of 1690, which last was ratified by the Act of Union; and the grievance of Patronage was only again imposed on her by the Act of Queen Anne, which was passed against her remonstrance, and in disregard of justice. The Church does not seek anything which will be a novelty either in her history or in her practice; she only seeks to be relieved of an injustice.

3. The present circumstances of the country make it reasonable to give the members of the Church of Scotland an increased measure of ecclesiastical liberty.

As bearing upon this point, it may be mentioned, that whereas formerly the Patrons were, as a rule, members of the Church, it is no longer so. In many cases they belong to a different communion; in some cases they have no property within the parish; in many they are non-resident. Even where they have most conscientiously exercised the trust committed to them, the result has often been division, opposition, and secession from the Church.

A plan, not unlike the scheme now suggested by the Church for the appointment of ministers, is, and has for many years been, actually adopted by the Crown, by the corporations, and by not a few of the private Patrons, in giving the choice of the minister to the heritors and communicants. It is, accordingly, a fact that Lay Patronage has become practically obsolete in

many of the parishes of Scotland. The scheme, however, as voluntarily adopted by these Patrons, labours under very serious disadvantages, to which it would not be subject if it were made general and regulated by an Act of Parliament. For example—(1), except in the case of the parishes (140 in number) recently endowed by voluntary subscription, there is no machinery for working it,—the people, when favoured with the privilege of electing their minister, being left without regulations for their guidance; and (2), the scheme is not universal, and its adoption in some parishes tends to excite in others which are not similarly favoured a feeling of dissatisfaction with the Patron and his presentee.

4. This claim is urged in the interest of the whole community. It is the manifest duty of an Established Church to make itself as comprehensive as possible, consistently with its creed. The great mass of the people of Scotland are Presbyterians, belonging to Churches which agree in doctrine, discipline, and worship,* and from the previous statement it appears that the repeal of the law of Patronage would at least remove one of the chief obstacles to union. If Patronage were abolished and union effected on a proper basis, the National Church would be in a position for more efficiently carrying out, according to the principles of her parochial economy, and by means of a complete territorial organisation, with adequate endowments, the religious instruction and pastoral superintendence of the whole people. Even if union should be found impracticable, she should, if relieved from the alienating and disturbing element of Patronage, be enabled to prosecute the great work for which she exists, with the advantage of a firmer hold on the affections of her own people, and of more friendly and

* By the last Tabulated Report of the Registrar-General (1866), it appears that 81·68 per cent. of the people of Scotland are married by the clergy of the three leading Presbyterian Churches. Of these marriages, there were performed by the Church of Scotland, 43·87 per cent.; by the Free Church, 23·52 per cent.; by the United Presbyterian Church, 14·29. The Education Commissioners for Scotland reported, in 1867, the Church connection of about 2,000,000, out of the 3,000,000, of the population of Scotland. They state that 81·3 per cent. are connected with these three Churches; of which 44·4 per cent. adhere to the Church of Scotland; 26·1 per cent. to the Free Church; 10·7 per cent. to the United Presbyterian Church; while 10 per cent. are returned unclassified. The large towns were not included in this Report; but it will be seen how closely in many respects the figures correspond with those of the Registrar-General, which embrace the whole of Scotland.

methodical co-operation with other evangelical bodies in Scotland.

The sentiments of the Church towards other denominations may be gathered from the following resolutions unanimously come to by last General Assembly :—

(1.) In dealing with a representation from the Presbytery of Forfar, 'it was moved, seconded, and agreed to,—That the General Assembly, having heard the overture from the Presbytery of Forfar anent union with other Churches, express their deep sympathy with the object of the overture, and entertain a sincere hope that the time is not now far distant when, with the blessing of the Divine Head of the Church, the various Churches in Scotland, who are one in ecclesiastical government, and substantially in doctrine, may become more closely united in carrying out their common purpose of evangelical work amongst the people of Scotland.'

(2.) Another resolution was unanimously adopted, when considering the Report of the Home Mission Committee :—
'That the Committee be instructed to consider the best means of uniting the energies of Scottish Christians in conducting measures of home evangelisation; and that they be empowered, if they see cause, to confer either with individual ministers or with accredited representatives of other Churches, as to the best course to be pursued.'

The proposals sanctioned by the General Assembly have been already quoted, and express, in general terms, their desire that the nomination of ministers to vacant parishes should be vested in heritors, elders, and communicants, under such arrangements as should confer on the permanent male communicants of each parish the greatest amount of influence in the election which may be found consistent with the preservation of order and regularity in the proceedings. The Committee would greatly prefer that any legislative measure which may be passed, while containing such enactments as would effectually secure these objects, should at the same time leave with the judicatories of the Church the power of carrying out the provisions of the statute, by regulations framed by themselves, and subject to modification from time

to time, as experience might dictate. If Government are prepared at once to introduce a measure, then the Committee hope that an opportunity may be given to the Church, at an early stage, of considering its provisions; if, however, Government are of opinion that a detailed plan should be submitted to them, the Committee will take the necessary steps to ascertain the mind of the Church.

In name and by appointment of the Committee,

N. MACLEOD, D.D., }
W. R. PIRIE, D.D., } *Joint-Conveners.*
T. G. MURRAY, *Vice-Convenor.*

APPENDIX.

RESOLUTIONS OF THE GENERAL ASSEMBLY IN REFERENCE TO PATRONAGE.

I.—RESOLUTION OF 1868.

Edinburgh, 27th May 1868.—The which day the General Assembly of the Church of Scotland being met and constituted. *Inter alia,*—

The General Assembly had transmitted from their Committee on Overtures certain Overtures anent the Law of Patronage, and after discussion and division the Assembly by a majority came to the following deliverance :—

‘That the General Assembly appoint a Committee to inquire ‘ regarding the nomination of Ministers to vacant parishes, and as ‘ to the evils which are alleged to arise under the present law of ‘ Patronage, and to consider whether any modifications thereon are ‘ called for, and can be made; and, further, to communicate with ‘ influential parties as to such modifications as may appear likely ‘ to command success and to promote the interests of religion and ‘ the Church, and to report te next Assembly.’

Extracted from the Records of the General Assembly of the Church of Scotland, by

JOHN COOK, *Cl. Eccl. Scot.*

II.—RESOLUTION OF 1869.

At Edinburgh, the 26th day of May 1869.—The which day the General Assembly of the Church of Scotland being met and constituted. *Inter alia,*—

The Assembly called for the Report of the Committee on the Law of Patronage, which was given in and read.

It was moved and seconded—That the General Assembly, having heard the Report of the Committee on Patronage appointed

last year, approve of the diligence of the Committee, and adopt the said Report in so far as it indicates the evils which have arisen from the existing Law of Patronage, the advantages that would arise from the abolition thereof, with such compensation to Patrons as may appear just and expedient, and generally in so far as it recommends that the nomination of ministers should be vested in heritors, elders, and communicants, leaving the details, both as to the constitution of the nominating body, and as to the respective powers of the nominating body, and the congregation at large, to be arranged so that there should be conferred on the permanent male communicants of each parish the greatest amount of influence in the election of ministers which may be found consistent with the preservation of order and regularity in the proceedings.*

* The following were the counter motions proposed in 1869 :—

Another motion was made and seconded—That the General Assembly receive the Report, and record their thanks to the Convener and Committee for their diligence and zeal ; but, in respect of the great diversity of opinion which the returns transmitted with the Report show to exist in the Presbyteries of the Church, both as to the nature and extent of the evils alleged to arise from the present mode of nominating ministers to vacant charges, and the manner in which these are to be remedied ; and farther, in absence of any indication of the sources from which compensation to Patrons is to be derived—Find that there does not exist any reasonable prospect of a speedy or more satisfactory settlement of the question by the Legislature, and that the continued agitation of it in these circumstances is unwise and inexpedient.

A third motion was made and seconded in terms of motion second, up to the words—‘ And that the continual agitation,’ &c., for which it substituted the following :—‘ And therefore, for the purpose of obtaining fuller information on ‘ the subject, and more correctly ascertaining the mind of the Church and the ‘ country regarding it, remit the whole question to the Committee, with ‘ instructions further to prosecute their inquiries among Presbyteries, Patrons, ‘ and lay members of the Church, and to report to next General Assembly.’

After adjournment and long discussion, a vote was called for, and there being three motions before the House, it was agreed, first, to take the vote between the second and third motions ; and the roll being called, and votes marked, it carried second motion by 61 to 57. A vote was then taken between the first and second motions, and the roll being called, and votes marked, it carried first motion by 193† to 88 ; whereupon the first motion became the judgment of the House.

Extracted from the Records of the General Assembly of the Church of Scotland, by

JOHN COOK, *Cl. Eccl. Scot.*

† In this division there voted on both sides—	{Ministers,	. 168
	{Elders, .	. 113

281

Of the Ministers who voted, 114, or 68 per cent., voted first motion.

Of the Elders who voted, 79, or 70 per cent., voted first motion.

At Edinburgh, the 28th day of May 1869.—The which day the General Assembly of the Church of Scotland being met and constituted. *Inter alia,*—

The Assembly called for the overtures from the Synod of Aberdeen and the Synod of Moray anent transmitting through the Barrier Act any alteration agreed to by the General Assembly as to the Law of Patronage ; and Mr Cushny was heard in support of the overture from the Synod of Moray.

It was moved and seconded—That the General Assembly, having considered the overtures anent Patronage, in respect that the provisions of the Barrier Act are not applicable to the resolution as to Patronage come to at a prior diet of Assembly, dismiss the overtures ; and having in view the foresaid resolution, and the expediency of taking steps to carry out the same without delay, resolve to petition both Houses of Parliament for the removal of Patronage, in terms of the petition, the draft whereof is now submitted to the House, and authorise the Moderator to sign the same ; and further, appoint a committee to take all other necessary steps for carrying their resolution into effect, and for attending to the progress of any legislative measure on the subject of Patronage which may be introduced into Parliament.

The following is the Petition :—

To the Honourable the Commons of the United Kingdom of Great Britain and Ireland, in Parliament assembled, the Petition of the General Assembly of the Church of Scotland,

Sheweth,—

That your petitioners are of opinion that evils have arisen to the Church of Scotland and to the country from the existing Law of Patronage, as regulating the nomination of ministers to vacant parishes in Scotland, and that advantages would arise to the Church and to the country from the abolition thereof, with such compensation to patrons as may seem just and expedient : That your petitioners are further of opinion that the nomination of ministers should be vested in heritors, elders, and communicants—the details, both as to the constitution of the nominating body, and as to the respective powers of the nominating body and the congregation at large, being so arranged as to confer on the permanent male communicants in each parish the greatest amount of influence in the election of ministers which may be consistent with the preservation of order and regularity in the proceedings.

May it therefore please your Honourable House to take such measures as shall secure to your petitioners an alteration in the law regulating the nomination of ministers to

vacant parishes in Scotland, consistent with the before-indicated views of your petitioners ; and your petitioners, as in duty bound, will ever pray.

N. MACLEOD, *Moderator*.

A Petition in similar terms was presented to the House of Lords.

III.—RESOLUTION OF 1870.

At Edinburgh, the 24th day of May 1870.—The which day the General Assembly of the Church of Scotland being met and constituted. *Inter alia*,—

The Assembly called for the Report of the Committee on Patronage, which was given in and read by Dr Pirie, the convener.

It was moved and seconded—That the General Assembly having heard the Report, express their gratification at the amount of support received from Members of Parliament and others. Reappoint the Committee, with instructions to use all prudent and constitutional means to obtain, as speedily as possible, a measure for the alteration of the Law of Patronage, in accordance generally with the principles embodied in the resolution of last General Assembly ; and authorise the Committee, if they see it expedient, to prepare the outline of a Bill in harmony with these principles, and submit it for the approval of the Commission, at a meeting specially called for the purpose, if necessary.*

* The following were the counter resolutions proposed in 1870 :—

Another motion was made and seconded—That the General Assembly receive the Report, and desire to acknowledge the diligence with which the Committee have carried out the remit of the last Assembly. Continue the Committee, with instructions to delay further proceedings until the Government indicate the course they mean to follow on this momentous subject ; and the Assembly further instruct the Committee, in the event of their securing a definite answer from Government, to report the same, not to a Commission of this General Assembly, but to next General Assembly, because they are fully assured that it would be most satisfactory to the Church, the Legislature, and the country, that whatever the ultimate decision of the Church on this important question may be, it should be brought before them as the deliberate resolution of the Assembly itself.

A third motion was made and seconded—That the General Assembly having heard the Report, express their gratification at the amount of support received from members of Parliament and others. Reappoint the Committee, with instructions to use all prudent and constitutional means to obtain, as speedily as possible, the opinion of the Government upon the memorial and application submitted to them, and to endeavour to get the Government to bring in a Bill in accordance with the terms of the memorial ; and authorise the Committee, if required by Government, or if they see fit and expedient, to prepare the out-

IV.—RESOLUTION OF 1871.

At Edinburgh, the 25th day of May 1871.—The which day the General Assembly being met and constituted. *Inter alia*,—

The Assembly called for the Overture anent Patronage from the Presbytery of Cairston, which was read, and also for the Report of the Anti-Patronage Committee, which was given in and read by Dr Pirie, convener.

A fifth motion was made and seconded—That without expressing entire approval of the Committee's Report or the suggestion therein proposed, the Assembly reappoint the Committee, with power to add to their number, instructing them to use every endeavour to carry out the views of the last General Assembly, and to use all their influence with the Government to induce it to introduce, during next session of Parliament, a Bill for the abolition of Patronage in the Church, with compensation to patrons, and to see that in any future scheme for the election of ministers there shall be a due representation of the heritors of the parish paying stipend as well as of the members of the Church.*

line of a Bill in harmony with the principle embodied in the resolutions of the Assembly last year, and submit it for the approval of the Commission, at a meeting specially convened.

The Assembly adjourned at half-past five, to meet again at eight o'clock.

Edinburgh, eo die, eight o'clock.—The Assembly met at eight o'clock, pursuant to adjournment, and was constituted. The debate on the Patronage Report was resumed.

After long reasoning, a vote was called for ; and Mr Smith having, with the leave of the House, withdrawn the third motion which he had proposed, it was agreed that the state of the vote should be first or second motion ; and the roll being called, and votes marked, it carried first motion by 241 to 68 ; whereupon the first motion became the judgment of the House.

Extracted from the records of the General Assembly of the Church of Scotland, by JOHN COOK, *Cl. Eccl. Scot.*

* The other motions proposed this year were as follows :—

1. That the General Assembly reappoint the Committee, with instructions to use every endeavour to carry out the views of last General Assembly.

2. That the General Assembly, having heard the report, declare that it is not consistent with the position of the Church as a great national establishment to sanction the introduction of any Bill by a private member of Parliament affecting a matter of such vital moment as the appointment of her ministers, in which the spiritual interests of the people of Scotland and the civil rights of patrons are so gravely involved. Continue the Committee, with instructions to delay further proceedings until a distinct declaration be received from Government as to the character of any Bill which they propose to introduce, and to communicate such declaration to the General Assembly, or to a meeting of the Commission of Assembly specially called.

3. That the General Assembly cordially thank the Patronage Committee for

V.—RESOLUTION OF 1872.

At Edinburgh, the 30th May 1872.—The which day the General Assembly of the Church of Scotland being met and constituted.

Inter alia,—

The Assembly called for the Report of the Committee on Patronage, which was given in and read by Dr Pirie, the convener.

their diligence, and considering it to be of essential importance to the success of the present anti-patronage movement, that, if patronage be abolished on the securing of fair compensation to patrons, the whole process in connection with the filling up of vacant ministerial charges shall thereafter be acknowledged as within the proper jurisdiction of the Church without Parliament being requested to fix a detailed plan of procedure, the Assembly direct their Patronage Committee to vindicate the constitutional power of the Church in this matter by endeavouring to secure the simple abolition of Patronage and compensation of patrons, in order that the General Assembly may be left free, in virtue of the Church's own constitution, to make full provision for vacant congregations to exercise the privilege of choosing pastors for themselves in accordance with propriety and ecclesiastical order.

4. Approve of the diligence of the Committee, and reappoint them, with instructions to use all their influence with the Government to induce it to introduce during next session a Bill for the abolition of Patronage in the Church, with compensation to the patrons, and to see that in any future scheme for the election of ministers there shall be a due representation of the heritors of the parish paying stipend as well as of the members of the Church.

5. The fifth motion, as above, was carried.

6. That without expressing approbation of all the suggestions contained in the Report, the General Assembly receive the same, and reappoint the Committee, with renewed instructions to use all prudent and constitutional means to obtain as speedily as possible a measure for the alteration of the Law of Patronage in accordance, generally, with the principles embodied in the resolutions of the General Assembly of 1869, but with special directions not to become in any degree parties to the introduction of any Bill which has not been submitted for the approval of the Commission.

With the leave of the House, after lengthened discussion, the first and fourth motions were withdrawn. Four motions remaining, a vote was called for. It was agreed to take the vote *numeratim*, and the fifth and sixth motions having been put against each other, the tellers reported that there had voted for the fifth 137, including tellers; and for the sixth 64, whereupon the fifth motion fell to be put against the third, and the vote having been again taken, the tellers reported that there had voted—fifth motion, 120; third motion, 9; whereupon the fifth motion fell to be now put against the second motion; and the vote being again taken *numeratim*, the tellers reported that there had voted—fifth motion (Sir R. Anstruther), 158; and for second motion (Dr Pearson), 62, tellers included, whereupon the said fifth motion became the judgment of the House.

From which judgment the Earl of Selkirk dissented for reasons to be given in, to which dissent Mr W. Malcolm adhered.

Extracted from the Records of the General Assembly of the Church of Scotland, by

JOHN COOK, *Cl. Eccl. Scot.*

It was moved and seconded—That the General Assembly approve of the diligence of the Committee, express their satisfaction with the progress made in obtaining Parliamentary support, reappoint the Committee, and instruct them to continue their endeavour to get a measure passed by the Legislature repealing the Acts of Queen Anne, and providing for the future nomination and settlement of ministers according to the views of the Church.*

VI.—RESOLUTION OF 1873.

At Edinburgh, the 30th May 1873.—Which day the General Assembly being met and constituted. *Inter alia*,—

The Assembly called for the Report of the Committee on Patronage, which was given in and read by Dr Pirie, the convener.

It was moved and seconded—‘ Approve of the Report, continue the Committee, and instruct them to avail themselves of any opportunity which may occur of getting the subject satisfactorily dealt with by the Legislature in the spirit of previous resolutions of the Assembly; further instruct the Committee to give every assistance to Sir Robert Anstruther in carrying his motion before the House of Commons to a successful issue.’†

* The counter motion proposed this year was as follows :—

Approve of the diligence of the Committee, and continue them, with instructions to communicate directly with the Government with respect to any alteration in the manner of appointing ministers to benefices, and to report the result to next General Assembly.

The second motion not being pressed to a division, the first became the judgment of the House, from which deliverance the following members dissented :—The Earl of Selkirk; Sir James Elphinstone; Walter Malcolm, Esq.; Dr Cook, Haddington; Mr King, of New Kilpatrick; Mr James S. Johnson, Cambuslang; Dr Logie; Dr Barty; Mr M‘Vicar, Ordiqhill; Mr Gray, Rothes; Mr Harper, Wishaw; Dr Zachary Macaulay, Hamilton; Dr George Cook, Borgue; Mr G. Cook, Longformacus.

Extracted from the Records of the General Assembly of the Church of Scotland, by

JOHN COOK, *Cl. Eccl. Scot.*

† The counter resolution proposed this year was as follows :—

Receive the Report, thank the Committee, and continue them, with this instruction, that they communicate directly with Her Majesty’s Government, with a view to ascertain whether it is the purpose of Government to introduce any change into the Law of Patronage, and the nature of the change.

The second motion not being pressed to a division, the first became the judgment of the House.

Extracted from the Records of the General Assembly of the Church of Scotland, by

JOHN COOK, *Cl. Eccl. Scot.*

VII. PROCEEDINGS IN 1874.

At Edinburgh, the 26th day of May 1874.—The which day the General Assembly of the Church of Scotland being met and constituted. *Inter alia*,—

The Assembly called for the Report of the Committee on Patronage, which was given in and read by Dr Pirie, the convener.

It was moved and seconded—That the General Assembly express their great obligation to the Government for the introduction of the Bill which has now been laid upon the table, and approve thereof generally, as affording the means of a satisfactory solution of the question of Patronage in the Church.

Another motion was made and seconded—That Patronage has for many years been exercised by the Crown and the lay patrons of Scotland with great judgment, discretion, and conscientiousness, and with an earnest desire not only to promote the spiritual interests, but to consult the feelings of the people. That the recent demand for its abolition, which has led to the introduction of the Bill now on the table of the Assembly, did not originate with, and has not the sympathy or support of the large proportion of the educated and intelligent members of the congregations of the Church. That the total abolition of Patronage, as hitherto vested in the Crown and great landed proprietors of Scotland, puts an end to that indirect but most salutary influence which the Government and the proprietary of the country have heretofore exercised in the Church; and that the vesting the appointment of the ministers of the Church in the male communicants of their congregations, is likely to lead to heats and divisions in parishes, is unfavourable to the independent position of the ministers so appointed, as regards the body among whom he is to minister, and as regards the parishioners generally, places him in the position, not of the minister of the parish, but of the minister of a denomination within the parish, and so affords a specious argument to those who are hostile to the Church for the withdrawal of its national support.

This motion was not pressed to a division, whereupon the first motion became the judgment of the House, from which

judgment Dr Cook dissented, in his own name and in the name of all who should adhere to him; to which dissent adhered the Earl of Selkirk; Walter Malcolm, Esq.; Mr Brown, Collace; Mr Carmichael, East Church, Perth; Admiral Sir William Hope Johnston; Christopher Douglas, Esq.; Mr Thomson, Glamis; Dr Craig; Mr Taylor, Brodick; Mr Robert Moir Spence; Mr Grant, Buittle; John Cook, Esq.; Sir William Gibson Craig, Bart.

The following motion was then agreed to—That the Bill be remitted to the Committee, with any instructions the Assembly may consider necessary, in order that they may communicate with Government on the subject, and endeavour to secure the passing of the measure in a satisfactory form during the present session.

At Edinburgh, the 29th May 1874.—Which day the General Assembly being met and constituted. *Inter alia,*—

It was moved, seconded, and agreed to—That the General Assembly resolve to petition both Houses of Parliament in favour of the Bill now before the House of Lords; Further, reappoint the Committee with all the usual powers; instruct the Committee, in the event of the Bill becoming law, to frame such regulations as they may think suitable for carrying out the object of the Act, and thereafter request the Moderator to call a special meeting of the Commission, before which the draft regulations framed by the Committee may be laid for consideration and approval, and also for raising a fund to assist parishes in meeting the claims of such patrons as may claim compensation, and generally instruct the Committee to do everything which may be necessary for bringing the Act into operation prior to the meeting of next General Assembly.

The proposed petition was then read and approved of. Its tenor is as follows:—

Unto the Right Honourable the Lords Spiritual and Temporal in Parliament assembled, the humble Petition of the Ministers and Elders met in the General Assembly of the Church of Scotland,—

Sheweth,

That the present law of Patronage in the Church of Scotland has been productive of serious evils to the Church and to the

country, having more or less directly been the occasion of all the secessions from the Church.

That your Petitioners have learned with lively satisfaction that a Bill has been introduced into your Right Honourable House, intituled ‘ An Act to alter and amend the laws relating to the appointment of ministers to parishes in Scotland.’

That your Petitioners are of opinion that this Bill affords the means of a satisfactory solution of the question of Patronage, and if passed into a law, will be productive of the best effects on the ecclesiastical relations, and on the moral and religious condition of the people of Scotland.

May it therefore please your Right Honourable House to pass the said measure into a law; and your Petitioners, as in duty bound, will ever pray.

SAMUEL TRAIL, D.D., *Moderator.*

His Grace the Lord High Commissioner to be requested to present the petition to the House of Lords, or, in the event of His Grace not being able to be present there on Tuesday first to transmit the same to the Duke of Richmond.

The petition to the House of Commons was ordered to be sent to the Lord Advocate, to be presented by him, to whom the General Assembly record a cordial vote of thanks for the valuable services he has rendered to the Church and the country in the promotion of this measure.

Extracted, on this and the preceding twenty pages, from the Records of the General Assembly by

JOHN COOK, *Cl. Eccl. Scot.*

NOTE.

NOTE OF PARTIES HOLDING PATRONAGE IN THE
CHURCH OF SCOTLAND.

The number of Patronages belonging to the Crown is	.	319
There are Parishes having Popular Constitutions, including newly-erected <i>quoad sacra</i> Parishes, and five original Parishes,	.	155
In the hands of Town-Councils,	.	44
In the hands of Universities,	.	10
In the hands of 3 Noblemen,	.	91
In the hands of 7 do. having each 10 or upwards,	.	106
In the hands of 13 do. having each 5 or upwards,	.	87
In the hands of 13 do. having more than 2 and less than 5,	.	42
In the hands of 7 private parties,	.	41
In the hands of 41 parties, having 2 each,	.	82
In the hands of 177 parties, having 1 each,	.	177
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	261	626
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		1154







